

DOCKET FILE COPY ORIGINAL

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

A NEW YORK LIMITED LIABILITY PARTNERSHIP

901 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005-2327

425 PARK AVENUE
NEW YORK, NY 10022-3598
(212) 836-8000
FAX (212) 836-8689

1999 AVENUE OF THE STARS
LOS ANGELES, CA 90067-6048
(310) 788-1000
FAX (310) 788-1200

(202) 682-3500
FAX (202) 682-3580

NINE QUEEN'S ROAD CENTRAL
HONG KONG
852 2845-8989
FAX 852-2845-3682

WRITER'S DIRECT DIAL NUMBER

April 20, 1998

RECEIVED

APR 20 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RE: MM Docket No. 87-268

Dear Ms. Salas:

On behalf of Pelican Broadcasting Company, there is transmitted herewith and filed an original and four (4) copies of its "Petition for Reconsideration" in the above referenced proceeding.

Should there be any questions concerning the enclosure, kindly communicate directly with the undersigned counsel.

Very truly yours,

KAYE, SCHOLER, FIERMAN,
HAYS & HANDLER, LLP

By: 
Allan G. Moskowitz

Enclosure

No. of Copies rec'd 024
DATE APR 21 1998

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

RECEIVED

APR 20 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Advanced Television Systems)
and Their Impact Upon the Existing) MM Docket No. 87-268
Television Broadcast Service)

To: The Commission

PETITION FOR RECONSIDERATION

Pelican Broadcasting Company ("Pelican"), by its counsel, hereby seeks reconsideration of the Commission's *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, FCC 98-24 (released February 23, 1998) ("MO&O"), in the above-captioned proceeding. In support of this petition, the following is stated:

I. Background.

On July 23, 1996, Pelican filed a petition for rulemaking requesting the Commission to allot Channel 44 to Marshfield, Missouri, as that community's first local television service. On the same date, Pelican filed an accompanying application for a new television station to operate on Channel 44 at Marshfield, Missouri.¹

In its *Sixth Report and Order* in this proceeding, 12 FCC Rcd 14488 (1997), the Commission noted that, in its *Sixth Further Notice of Proposed Rulemaking*, it stated that it

¹ Pelican's rulemaking petition and accompanying application included a request for waiver of the Commission's order in *Advanced Television Systems and Their Impact on the Existing Television Broadcast Service*, RM-5811, 1987 FCC LEXIS 3477 (July 17, 1987), 52 Fed.Reg. 28346 (1987) ("Freeze Order").

would not accept additional applications for new NTSC stations that were filed after September 20, 1996.² The Commission also noted, however, that it would continue to process applications already on file and those that were filed on or before September 20, 1996, because the Commission did not believe that these applications would have a “significant negative impact” on the development of the DTV Table of Allotments. *Sixth Report and Order*, 12 FCC Rcd at 14635, ¶104. The Commission further noted that it also stated in its *Sixth Further Notice* that it would continue to accept petitions for rulemaking proposing to amend the existing TV Table of Allotments in Section 73.606(b) of the rules through July 25, 1996. *Id.* at ¶105. Any petitions that were on file and any rulemaking proceedings that were pending on that date would be addressed on a case-by-case basis, taking into account their impact on the DTV Table.³ *Id.*

II. The MO&O Failed to Protect Pelican’s Pending NTSC Rulemaking Petition and Accompanying Application.

In its recent *MO&O*, the Commission repeatedly confirmed that it fully intended to protect pending NTSC applications filed by the September 20, 1996, deadline. *See, e.g., MO&O* at ¶¶571, 575, 608, 627. Nevertheless, the DTV Table set forth in the *MO&O* fails to protect Pelican’s pending rulemaking petition seeking the allotment of NTSC Channel 44 at Marshfield, Missouri, as well as Pelican’s pending application for that facility. As stated above, Pelican’s

² *See Sixth Further Notice of Proposed Rulemaking*, 11 FCC Rcd 10968, 10992 ¶60 (1996) (“*Sixth Further Notice*”). Specifically, the Commission stated that it would not accept additional applications for NTSC stations that were filed after 30 days from the publication of the *Sixth Further Notice* in the Federal Register. A summary of the *Sixth Further Notice* was published in the Federal Register on August 21, 1996. *See* 61 Fed.Reg. 43209 (1996).

³ The Commission also stated that, in those pending cases in which a new NTSC channel is allotted, it would make an exception to its September 20, 1996, deadline and accept applications for the new stations. *Sixth Report and Order*, ¶105.

rulemaking petition and accompanying application for the Channel 44 facility at Marshfield were on file with the Commission prior to the respective July 25 and September 20, 1996, filing deadlines. In its *Sixth Further Notice*, the Commission noted that there were more than 300 applications then on file which, if processed, would result in more than 100 new NTSC stations. *Sixth Further Notice*, 11 FCC Rcd at 10992, ¶60. The Commission further stated:

As we process the applications on file now and those that are filed before the end of this filing opportunity, we will continue our current policy of considering requests for waiver of our 1987 freeze Order on a case-by-case basis.

Id. (emphasis added).⁴ The Commission provided no notice, however, that, with respect to these pending applications for new television stations, it had no intention of acting on requests for waiver of the 1987 Freeze Order, but, instead, was merely going to treat applications containing such a waiver request as if they had never been filed.⁵ The Commission also failed to provide any notice that an application would be considered to be “pending” only if it had been formally “accepted for filing,” or if the application did not include a request for waiver of the 1987 Freeze Order. Indeed, rather than “considering requests for waiver of the 1987 Freeze Order on a case-by-case basis,” as the Commission stated it would in its *Sixth Further Notice* (and as the Commission claimed to have done in its *Sixth Report and Order*), the Commission simply

⁴ The Commission reiterated this statement in its *Sixth Report and Order* at ¶104.

⁵ After conducting a comprehensive review of the FCC’s engineering database with respect to those television applications that were filed either on or shortly before the September 20, 1996, filing deadline, and the cut-off lists that have been issued since the release of the *Sixth Further Notice*, Pelican has been unable to find even one instance where the Commission processed such an application and “considered” a request for waiver of the 1987 Freeze Order.

disregarded all applications that contained a request for waiver of the 1987 Freeze Order in establishing the DTV Table, and treated such applications as if they had never been filed.⁶

The Commission's failure to protect the proposed allotment of Channel 44 at Marshfield and Pelican's pending application for that facility is flatly inconsistent with the statements the Commission made in its *Sixth Further Notice* and *Sixth Report and Order*, and the Commission neglected to provide any explanation for its failure to consider Pelican's pending proposals in establishing the DTV Table. Therefore, for this reason alone, the DTV Table contained in the *MO&O* should be revised to accommodate the proposed NTSC allotment of Channel 44 at Marshfield, Missouri, and Pelican's pending application for that facility.

III. The Commission Should Substitute DTV Channel 47 for the Existing DTV Channel 44 Allotment at Springfield, Missouri, or, Alternatively, Pelican Should be Permitted to Amend its Pending NTSC Rulemaking Petition and Accompanying Application to Specify an Available Alternative Channel.

In this case, the proposed NTSC allotment of Channel 44 at Marshfield, Missouri, is short-spaced to a co-channel DTV allotment for Station KYTV(TV), Springfield, Missouri. Assuming, *arguendo*, the Commission should determine that its failure to consider Pelican's pending rulemaking petition and accompanying application for a Channel 44 NTSC facility at Marshfield does not constitute a sufficient basis, in itself, for granting reconsideration of the DTV allotment of Channel 44 at Springfield, Missouri, the Commission has stated throughout this proceeding that it intends to give broadcasters the flexibility to develop alternative allotment plans where they do not result in additional interference to other stations and/or allotments. In

⁶ The Commission repeatedly stated throughout its *MO&O* that applications containing such waivers had not been accepted, no action had been taken on the waiver request, and that the subject channel was used for DTV purposes. *See, e.g., MO&O* at ¶¶608, 627; *see also* ¶575.

order to accommodate Pelican's pending rulemaking petition proposing the NTSC allotment of Channel 44 at Marshfield, Pelican respectfully requests that the Commission change the DTV allotment for Station KYTV(TV), Springfield, from Channel 44 to Channel 47. As demonstrated in the attached engineering statement, the substitution of DTV Channel 47 for Channel 44 will increase the replication of service area and population served by Station KYTV and would cause negligible interference to any digital or NTSC station (less than 0.05%).

Alternatively, in the event the Commission elects not to substitute DTV Channel 47 for Channel 44 at Springfield, Pelican requests that it be permitted to amend its pending rulemaking petition and accompanying application to specify operation on any one of the following channels at Marshfield: 39, 53-56, or 58-59. As demonstrated in the attached engineering statement, none of these NTSC channels will cause interference to any other DTV or NTSC facility.

The proposed substitution of DTV Channel 47 for Channel 44 at Springfield, or, alternatively, permitting Pelican to amend its pending NTSC rulemaking petition and accompanying application to specify operation on any one of the available alternative channels at Marshfield would effectuate the Commission's pronouncements in its *Sixth Further Notice* and *Sixth Report and Order* that it would protect those pending NTSC rulemaking petitions and applications that were filed before July 25 and September 20, 1996, respectively.

IV. The Proposals Set Forth Herein Would Provide Substantial Public Interest Benefits.

In this case, either substituting DTV Channel 47 for Channel 44 at Springfield, or permitting Pelican to amend its pending rulemaking petition and accompanying application to specify operation on any one of the available alternative NTSC channels set forth above would

provide the community of Marshfield with its first local television service, which would promote the objectives of Section 307(b) of the Communications Act of providing a fair, efficient and equitable distribution of television broadcast stations among the various states and communities. 47 U.S.C. §307(b). See *National Broadcasting Co. v. U.S.*, 319 U.S. 190, 217 (1943) (describing goal of Communications Act to “secure the maximum benefits of radio to all the people of the United States”); *FCC v. Allentown Broadcasting Co.*, 349 U.S. 358, 359-62 (1955) (describing goal of Section 307(b) to “secure local means of expression”). In addition, the proposed allotment would promote the second television allotment priority established in the *Sixth Report and Order* in Docket Nos. 8736 and 8975, 41 FCC 148, 167 (1952), of providing each community with at least one television broadcast station.

Furthermore, the substitution of DTV Channel 47 for Channel 44 at Springfield or permitting Pelican to amend its pending rulemaking petition and accompanying application to specify an available alternative NTSC channel at Marshfield would serve the public interest by promoting the emergence and development of new networks.⁷ As far back as 1941, when the

⁷ Pelican’s application for the Marshfield facility was filed in tandem with a series of other applications which, together, cover many of the top 100 markets in which there are no full power television stations to primarily affiliate with The WB Television Network (“The WB”), with whom these respective applicants have existing affiliations. Although there is no commitment on the part of either the applicants or The WB to enter into an affiliation agreement, The WB has indicated a willingness to enter into an affiliation agreement with these applicants in the event they are successful in acquiring a station in their respective communities. It should be made clear, however, that the public interest benefit of promoting an emerging network will be achieved regardless of which applicant ultimately acquires the construction permit. The important element is that the NTSC allotment be preserved and that the station become operational and available for affiliation. By the same token, the public interest benefit of promoting emerging networks is served regardless of whether it is The WB or some other new network that gains a primary affiliate in a top 100 market.

Commission adopted its Chain Broadcasting Rules,⁸ a primary goal of the Commission was to remove barriers that would inhibit the development of new networks. The Commission explained that the Chain Broadcasting Rules were intended to "foster and strengthen broadcasting by opening up the field to competition. An open door to networks will stimulate the old and encourage the new." *Report on Chain Broadcasting* at 88.

The successful emergence of new networks, however, depends in large part upon their ability to attract and retain local affiliates, which is the life blood of any national network. Moreover, for emerging networks, it is critical that they be afforded the opportunity to compete for affiliates as quickly as possible. Indeed, the large financial losses that confront any national network in its initial years of operation can be stemmed only by obtaining additional affiliates to carry the emerging network's programming. In many markets, however, there simply are not enough stations to provide affiliates for emerging networks in addition to those of the more established networks. Thus, the Commission should make the requested change in the DTV Table which, by permitting an additional broadcast station to serve the Springfield, Missouri television market, will help promote emerging networks.

Although the Commission has noted that it is not its function to assure competitive equality in any given market, it has acknowledged its "duty at least to take such actions as will

⁸ See *Report on Chain Broadcasting*, Commission Order No. 37, Docket 5060 (May 1941) at 88 ("Report on Chain Broadcasting"); *Amendment of Part 73 of the Commission's Rules and Regulations with Respect to Competition and Responsibility in Network Television Broadcasting*, 25 FCC 2d 318, 333 (1970); *Fox Broadcasting Co. Request for Temporary Waiver of Certain Provisions of 47 C.F.R. §73.658*, 5 FCC Rcd 3211, 3211 n.9 (1990), (citing, Network Inquiry Special Staff, *New Television Networks: Entry, Jurisdiction, Ownership, and Regulation* (Vol. 1 Oct. 1980)), waiver extended, 6 FCC Rcd 2622 (1991).

create greater opportunities for more effective competition among the networks in major markets."⁹ The history of the Commission's financial interest and syndication ("finsyn") rules provides a good illustration of how the Commission has remained steadfast in its commitment to the goal of nurturing new networks. In 1970, when the Commission first adopted the finsyn rule, it noted that "[e]ncouragement of the development of additional networks to supplement or compete with existing networks is a desirable object and has long been the policy of this Commission." *Competition and Responsibility in Network Television Broadcasting*, 25 FCC 2d at 333. More than two decades later, when the Commission first relaxed and later eliminated the finsyn rule, it did so at the behest of the then-newest network entrant, Fox.¹⁰ The FCC's goal of fostering new networks also is reflected in the Commission's relaxation of its multiple ownership

⁹ See, e.g., *Television Broadcasters, Inc.*, 4 RR 2d 119, 123 (1965) (Commission granted a short-spacing waiver to an ABC affiliate based largely upon its finding that the station had inferior facilities compared to those available to other national networks in the market, which resulted in a "serious competitive imbalance"), *recon. granted in part on other grounds*, 5 RR 2d 155 (1965); *New Orleans Television Corp.*, 23 RR 1113 (1962) (short-spacing waiver granted for the purpose of assuring the existence of a third truly competitive station in the market, thereby making available competitive facilities to the networks).

¹⁰ Pending its review of the finsyn rule, the Commission granted Fox's request for a limited waiver of the rule. *Fox Broadcasting Co.*, 5 FCC Rcd at 3211 (1990). As Commissioner Duggan explained, "Fox has been a bright and innovative force. The existence of a fourth network is certainly in the public interest. . . . Fox deserves to be encouraged." *Broadcasting & Cable*, May 7, 1990, ed., p. 28; *accord, Application of Fox Television Stations, Inc. for Renewal of License of Station WNYW-TV, New York, New York*, 10 FCC Rcd 8442, 8528-29 (1995) (Commissioner Quello stating in his concurring statement, "I believe . . . that the creation of the fourth network was a compelling public interest goal."). Similarly, in deciding to phase out the finsyn rule entirely in 1995, the Commission evaluated the rule's impact on "[t]he overall business practices of emerging networks, such as Fox, in the network television and syndication business . . . [and t]he growth of additional networks, including the development of Fox and its position vis-à-vis the three major networks." *Evaluation of Syndication and Financial Interest Rules*, 10 FCC Rcd 12165, 12166 (1995).

rules. *See Amendment of Section 73.3555 of the Commission's Rules Relating to Multiple Ownership of AM, FM, and Television Broadcast Stations*, 100 FCC 2d 17, 44 (1984) (relaxing restrictions on multiple ownership advances the Commission's diversity goal by providing alternatives to the three television networks).

The Commission also has crafted other rules and granted a variety of waivers designed to foster the development of new networks over the years. In 1967, for example, the Commission granted a waiver of the dual network rule to ABC, the then-new network entrant, in connection with ABC's four new specialized radio networks. Although operation of the four networks violated the dual network rule, the Commission nevertheless concluded that waiver of the rule was appropriate because ABC's proposal "merits encouragement as a new and imaginative approach to networking." *Proposal of American Broadcasting Cos., Inc. to Establish Four New Specialized "American Radio Networks,"* 11 FCC 2d 163, 168 (1967). The Commission explained that it was "of more than usual importance to encourage to the extent possible innovation and experimentation in the operation of networks." *Id.* at 165.

As these examples illustrate, the Commission has remained steadfast in its commitment to the goal of encouraging new networks. Indeed, the Commission has consistently concluded for more than fifty years that the development of new networks -- with the accompanying diversity of viewpoint that they bring -- serves the public interest. In order for emerging networks to survive, however, it is imperative that they be afforded the opportunity to compete for additional local affiliates. The requested change in the DTV Table of Allotments will help facilitate the Commission's longstanding interest in promoting the emergence of new networks by providing an additional broadcast station with which to affiliate in the Springfield market.

WHEREFORE, in light of the foregoing, Pelican Broadcasting Company respectfully requests that the Commission GRANT reconsideration of its *MO&O* by substituting DTV Channel 47 for the existing DTV Channel 44 allotment at Springfield, Missouri, or, alternatively, permit Pelican Broadcasting Company to amend its pending NTSC rulemaking petition and accompanying application to specify operation on any one of the available alternative NTSC channels set forth herein.

Respectfully submitted,

PELICAN BROADCASTING COMPANY

By: 
Allan G. Moskowitz

Kaye, Scholer, Fierman,
Hays & Handler, LLP
901 15th Street, N.W.
Suite 1100
Missouri, DC 20005

Its Counsel

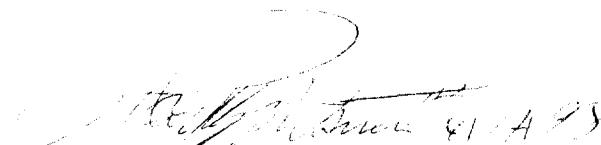
April 20, 1998

Engineering Statement
Marshfield, MO Channel 44
Wes, Inc. Broadcast Consultants

The program used to demonstrate interference and service replication percentages in this study was the OET FLR program, OET Bulletin 69, running on our own Sun Microsystems computers. These computers have been verified to give identical results to the runs generated by OET. The spacing programs are our own proprietary programs utilizing the FCC broadcast database and DTV database.

Due to a digital channel Channel 44 being assigned to Springfield, MO, 2.82 km away, a study was conducted to propose moving the digital channel 44 to channel 47. The study showed that it would receive a 99.6% match rather than 99.2% and would cause negligible interference to any digital or NTSC stations (less than 0.5%).

Should the Commission prefer moving the proposed NTSC channel 44 in Marshfield, MO, the TV channel spacing study shows channels 39, 53-56, 58 and 59 open to such a change. Also, the attached list of digital channels within 300 km shows no conflict on channel 53-56, 58, and 59 with any digital channels.



Pete E Myrl Warren, III Date
Whose qualifications are a matter of
record with the Commission

***** TV CHANNEL SPACING STUDY *****

Job title: SPRINGFIELD, MO
 Channel: 47
 Database file name: c:\tvsrc\tv980408.edx

Latitude: 37 10 11
 Longitude: 92 56 30

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
33-	KSPR	4909	SPRINGFIELD	MO	2	L	353.3	5.5	95.7	-90.2 OK
44o	ALLOTM	4911	MARSHFIELD	MO	2	A	21.6	9.2	31.4	-22.2 OK
47o	KWHB	5669	TULSA	OK	2	L	243.2	275.9	280.8	-4.9
47o	KWHB	5670	TULSA	OK	2	A	243.2	275.9	280.8	-4.9 > OK

***** End of channel 47 study *****

***** TV CHANNEL SPACING STUDY *****

Job title: MARSHFIELD, MO

Latitude: 37 11 40

Channel: 39

Longitude: 92 56 4

Database file name: c:\tvsrc\tv980408.edx

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
39-	ALLOTM	4281	CAPE GIRARDEAU	MO	2		86.8	302.5	280.8	21.7
44o	ALLOTM	4911	MARSHFIELD	MO	2	A	25.4	6.4	31.4	-25.0
39o	ALLOTM	5685	PARSONS	KS	2		275.2	207.9	280.8	-72.9

***** End of channel 39 study *****

***** TV CHANNEL SPACING STUDY *****

Job title: MARSHFIELD, MO
 Channel: 52
 Database file name: c:\tvsrc\tv980408.edx

Latitude: 37 11 40
 Longitude: 92 56 4

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
52o	ALLOTM	4541	ST. LOUIS	MO	2	A	55.8	288.2	280.8	7.4
44o	ALLOTM	4911	MARSHFIELD	MO	2	A	25.4	6.4	31.4	-25.0

***** End of channel 52 study *****

***** TV CHANNEL SPACING STUDY *****

Job title: MARSHFIELD, MO
 Channel: 53
 Database file name: c:\tvsrc\tv980408.edx

Latitude: 37 11 40
 Longitude: 92 56 4

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
53o	KWMJ	5671	TULSA	OK	2	L	245.5	298.7	280.8	17.9

***** End of channel 53 study *****

***** TV CHANNEL SPACING STUDY *****

Job title: MARSHFIELD, MO
 Channel: 54
 Database file name: c:\tvsrc\tv980408.edx

Latitude: 37 11 40
 Longitude: 92 56 4

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
54o	ALLOTM	4890	BENTON	AR	2	A	173.8	293.4	280.8	12.6

***** End of channel 54 study *****

***** TV CHANNEL SPACING STUDY *****

Job title: MARSHFIELD, MO
 Channel: 55
 Database file name: c:\tvsrc\tv980408.edx

Latitude: 37 11 40
 Longitude: 92 56 4

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
55+	ALLOTM	4512	POPLAR BLUFF	MO	2		101.4	230.9	280.8	-49.9

***** End of channel 55 study *****

***** TV CHANNEL SPACING STUDY *****

Job title: MARSHFIELD, MO

Latitude: 37 11 40

Channel: 56

Longitude: 92 56 4

Database file name: c:\tvsvr\tv980408.edx

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
56o	NEW	4497	MEMPHIS	TN	2	A	127.2	312.1	280.8	31.3
56o	NEW	4498	MEMPHIS	TN	2	A	127.2	312.1	280.8	31.3
56-	KMOV-D	4542	ST. LOUIS	MO	2	A	56.5	275.2	280.8	-5.6
49+	ALLOTM	4940	OSAGE BEACH	MO	2	A	14.6	109.7	95.7	14.0

***** End of channel 56 study *****

***** TV CHANNEL SPACING STUDY *****

Job title: MARSHFIELD, MO
 Channel: 58
 Database file name: c:\tvsrc\tv980408.edx

Latitude: 37 11 40
 Longitude: 92 56 4

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
58+	ALLOTM	4513	KENNETT	MO	2		114.3	285.8	280.8	5.0
43+	ALLOTM	4898	MOUNTAIN HOME	AR	2		152.7	107.3	119.9	-12.6
44o	ALLOTM	4911	MARSHFIELD	MO	2	A	25.4	6.4	95.7	-89.3

***** End of channel 58 study *****

***** TV CHANNEL SPACING STUDY *****

Job title: MARSHFIELD, MO
 Channel: 59
 Database file name: c:\tvsrc\tv980408.edx

Latitude: 37 11 40
 Longitude: 92 56 4

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
44o	ALLOTM	4911	MARSHFIELD	MO	2	A	25.4	6.4	119.9	-113.5

***** End of channel 59 study *****

Computing Tools FCC Database Reports Rev 1.4
 Digital TV Stations within 280.000 of 037-10-11 092-56-30
 Accuracy and completeness of these results is NOT assured.

St City	channel	latitude	longitude	distance, (km),	bearing (degrees)
MO Birch Tree	7	36-59-30	091-29-36	130.292,	98.72307
AR Jonesboro	9	35-53-17	090-56-09	229.125,	128.36841
AR Little Rock	12	34-47-57	092-29-59	266.030,	171.38360
MO Jefferson City	12	38-41-28	092-05-43	184.532,	23.78152
MO Kansas City	14	39-05-01	094-30-57	253.339,	326.98647
MO St. Louis	14	38-21-40	090-32-58	248.831,	57.89902
AR Fayetteville	15	36-00-57	094-04-59	163.791,	218.57880
MO Sedalia	15	38-44-47	093-16-30	177.434,	350.49681
OK Bartlesville	15	36-30-59	095-46-10	262.441,	253.96293
AR Fort Smith	18	35-30-43	094-21-38	223.751,	214.70181
MO Kansas City	18	39-04-59	094-28-49	251.602,	327.57406
MO Poplar Bluff	18	36-48-04	090-27-06	225.429,	100.45485
MO Springfield	19	37-13-08	092-56-56	5.494,	353.29739
AR Jonesboro	20	35-54-14	090-46-14	239.857,	125.84674
MO Jefferson City	20	38-42-16	092-05-20	186.110,	23.75410
MO Columbia	22	38-46-29	092-33-22	181.337,	10.76741
OK Tulsa	22	36-01-36	095-40-44	275.822,	242.62139
MO Springfield	23	37-13-08	092-56-56	5.494,	353.29739
MO Kansas City	24	39-04-15	094-34-57	255.404,	325.71100
MO Joplin	25	37-04-36	094-32-10	142.074,	265.83162
MO St. Louis	26	38-31-47	090-17-58	277.246,	57.01259
AR Fort Smith	27	35-42-37	094-08-15	194.224,	213.50767
AR Newark	27	35-43-25	091-26-40	209.208,	140.08706
MO Springfield	28	37-11-40	092-56-04	2.818,	13.15700
AR Little Rock	30	34-47-57	092-29-29	266.143,	171.22364
KS Pittsburg	30	37-13-15	094-42-25	156.834,	272.07268
MO Kansas City	31	38-52-16	094-26-15	230.033,	325.17974
MO St. Louis	31	38-34-50	090-19-45	278.127,	55.73518
AR Little Rock	32	34-47-57	092-29-59	266.030,	171.38360
MO Kansas City	34	39-04-20	094-35-45	256.191,	325.51463
AR Mountain View	35	35-48-47	092-17-24	161.471,	158.80014
MO St. Louis	35	38-34-05	090-19-55	277.162,	55.94605
KS Lawrence	36	38-53-46	095-10-29	274.143,	314.34501
MO Columbia	36	38-53-16	092-15-48	199.779,	17.34465
OK Claremore	36	36-24-05	095-36-33	252.915,	250.29847
OK Tulsa	38	36-01-15	095-40-32	275.864,	242.47440
AR Springdale	39	36-11-07	094-17-49	163.127,	227.95762
MO St. Louis	39	38-28-56	090-23-53	267.156,	56.95605
KS Fort Scott	40	37-26-36	094-39-31	155.215,	281.28183
MO Kansas City	42	39-04-20	094-35-45	256.191,	325.51463
OK Tulsa	42	36-01-10	095-39-24	274.440,	242.28300
AR Little Rock	43	34-52-28	092-00-35	268.173,	161.74463
MO Joplin	43	37-04-36	094-32-10	142.074,	265.83162
MO St. Louis	43	38-32-07	090-22-23	272.171,	56.16012
MO Springfield	44	37-10-11	092-56-30	0.000,	0.00000
AR Fayetteville	45	35-48-53	094-01-41	179.118,	212.91928

MO Joplin	46	37-04-33 094-33-16	143.707, 265.84208
IL East St. Louis	47	38-23-18 090-29-16	255.006, 57.96794
MO Kansas City	47	39-04-59 094-28-49	251.602, 327.57406
OK Tulsa	48	36-01-15 095-40-32	275.864, 242.47440
AR Jonesboro	49	35-53-27 090-54-06	231.340, 127.83865
AR Rogers	50	36-12-15 094-06-05	149.078, 224.05045
MO Kansas City	51	39-01-19 094-30-50	247.563, 326.14504
MO Springfield	52	37-13-08 092-56-56	5.494, 353.29739
OK Tulsa	55	36-01-15 095-40-32	275.864, 242.474

Springfield, MO as it is presently on DTV Channel 44

Run begins Fri Apr 17 12:51:38 1998, host gilwell

Analysis of: 3N MO SPRINGFIELD

	POPULATION	AREA (sq km)
within Noise Limited Contour	802291	52169.0
not affected by terrain losses	777657	49633.4
lost to NTSC IX	106414	7846.9
lost to additional IX by ATV	0	0.0
lost to all IX	106414	7846.9

Analysis of: 44A MO SPRINGFIELD

HAAT 622.0 m, ATV ERP 1000.0 kW, Cap Adj 3.4 dB

	POPULATION	AREA (sq km)
within Noise Limited Contour	802291	52169.0
not affected by terrain losses	777806	50097.3
lost to NTSC IX	2926	204.0
lost to additional IX by ATV	40253	2307.7
lost to ATV IX only	41339	2451.7
lost to all IX	43179	2511.7
percent match ATV/NTSC	99.2	98.9

Finished Fri Apr 17 13:07:56; run time 0:13:22

45448 calls to Longley-Rice; path distance increment 1.00 km

Springfield Digital Channel 44 moved to Digital Channel 47

Run begins Fri Apr 17 14:25:02 1998, host providence

Analysis of: 3N MO SPRINGFIELD

	POPULATION	AREA (sq km)
within Noise Limited Contour	802291	52169.0
not affected by terrain losses	777657	49633.4
lost to NTSC IX	106414	7846.9
lost to additional IX by ATV	0	0.0
lost to all IX	106414	7846.9

Analysis of: 47A MO SPRINGFIELD

HAAT 622.0 m, ATV ERP 1000.0 kW, Cap Adj 3.6 dB

	POPULATION	AREA (sq km)
within Noise Limited Contour	802291	52169.0
not affected by terrain losses	775559	49977.3
lost to NTSC IX	784	116.0
lost to additional IX by ATV	26713	1443.8
lost to ATV IX only	27331	1535.8
lost to all IX	27497	1559.8
percent match ATV/NTSC	99.6	99.4

Finished Fri Apr 17 14:46:16; run time 0:19:01

62636 calls to Longley-Rice; path distance increment 1.00 km

CERTIFICATE OF SERVICE

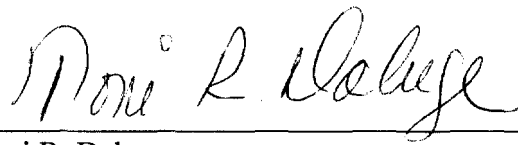
I, Toni R. Daluge, a secretary in the law firm of Kaye, Scholer, Fierman, Hays & Handler, LLP, hereby certify that on this 20th day of April, 1998, copies of the foregoing "Petition for Reconsideration" were hand delivered or mailed first-class, postage pre-paid, to the following:

Roy J. Stewart, Chief*
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W., Room 314
Washington, DC 20554

Barbara A. Kreisman, Chief*
Video Services Division
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W., Room 702
Washington, DC 20554

Bruce A. Franca, Deputy Chief*
Office of Engineering & Technology
Federal Communications Commission
2000 M Street, N.W. Room 480
Washington, D.C. 20554

Station KYTV(TV)
KY-3, Inc.
999 W. Sunshine
Springfield, MO 65807



Toni R. Daluge

* Hand Delivered